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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,336	04/03/2001	John Steinberg	EFIMO261	3928
31408	7590	12/01/2004	[REDACTED]	[REDACTED]
JAMES TROSINO 268 Bush Street #3434 SAN FRANCISCO, CA 94104			EXAMINER [REDACTED] BAYAT, ALI	[REDACTED]
			ART UNIT [REDACTED]	PAPER NUMBER 2625

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/826,336	STEINBERG, JOHN
	<b>Examiner</b> Ali Bayat	<b>Art Unit</b> 2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on amendment on 7/12/04.  
 2a) This action is **FINAL**.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-4,9-11,15,17,18,25-27 and 31 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-4, 9-11,15,17-18,25-27 and 31 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 17 August 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

***Response to Amendment***

1. Applicant's amendment filed on 7/12/04 has been entered and made of record.

Applicant's arguments (remarks) filed 7/12/04 have been fully considered but they are not persuasive. A) On page 6, lines 24-25, of Applicant's remarks, Applicant's argues that Gilman does not describe or suggest anything related to images created using a digital camera, but instead pertains to conventional color film photography. B) **Examiner disagrees Gilman provides for images created using a digital camera (Fig. 3B element 50, col.6 lines 59-60, note digital camera);** C) On page 7, lines 8-9, of Applicant's remarks, Applicant's argues that Gilman does not describe or suggest anything regarding creating a digital image of a target test sheet using a digital camera. D) **Examiner disagrees Gilman provides for creating a digital image of a target test sheet using a digital camera (Fig. 3B element 60, col.6 32-37).** E) On page 7, lines 24-28, of Applicant's remarks, Applicant's argues that the combination of Gilman and Murashita do not describe or suggest anything regarding creating a digital image of a target test sheet using a digital camera, and do not describe or suggest anything regarding comparing acquired color values to known color values to align the regions of the target test sheet with the regions of a digital image. F) **Examiner disagrees Gilman alone provides for digital image of a target test sheet (Fig. 3B element 60, col.6 lines 32-37), and further Gilman provides for comparing acquired color values to known color values (Fig. 3B element 54) to align the regions of the target test sheet (col.6 lines 32-37) with the regions of a digital image (Fig. 3B element 56, col. 6 lines 60-col.7 line 5, note that modified image data 58).**

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-4,10, 15,17-18,27 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Gilman (US 6,628,826).

In regard to claim 1 Gilman provides for a digital image processing method comprising: obtaining a target test sheet comprising a plurality of regions, each region comprising a known color value (Fig. 3B element 60, col.6 lines 32-37); using a digital camera to create a first digital image of the target test sheet, the first digital image comprising a plurality of regions, each region comprising an acquired color value (Fig. 3B element 60, col.6 lines 32-37); comparing the acquired values (Fig. 3B , element 60, col.6 lines 32-37) to the known color values ( Fig. 3b element 54 )to align the regions of the target test sheet with the regions of the digital image( Fig. 3B element 56, col. 6 lines 60-col.7 line

5, note that modified image data 58); and generating a profile to correct a color imbalance between the acquired color values and the known color values ( Fig. 3B element 56, col. 6 lines 60-col.7 line 5).

With regard to claim 2 Gilman provides for a method further comprises transmitting said image profile (Fig.1 element 24, note printer).

As to claim 3 Gilman provides for a method further comprises using the digital camera to create a second digital image, and using said profile to correct a color balance of the second digital image (Fig. 3B element 54).

In regard to claim 4 Gilman provides for a method further comprises using said profile to correct contrast in the second digital image (Fig. 3B element 56).

In regard to claim 10 Gilman provides for a method, wherein, comparing Further comprises comparing a hue of the acquired color values with a hue of the known color values (col.4 lines 65-67).

In regard to claim 15 Gilman provides for a method, further comprising linking said profile to a digital exhibit space (col.6 lines 47-54).

With regard to claim 17 Gilman provides for a method, further comprising saving said profile for future viewing (col.6 lines 47-54,note the standard may be downloaded from the ICC web site, which corresponds to saving the color corrected image profile).

In regard to claim 18. See claim 15 above. It recites similar limitations as claim 18. Hence it is similarly analyzed and rejected.

With regard to claim 27 see claim 1 above. It recites similar limitations as claim 27. Except for a processor (Fig.1 element 16). Hence it similarly analyzed and rejected.

As to claim 31 Gilman provides for an apparatus, wherein said profiling mechanism is integrated into said camera (col.6 lines 60-65).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 9, 11, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilman et al. (U.S. 6,628,826) in view of Murashita et al. (U.S. 6,504,950).

As to claim 9 Gilman provides for a color management system (Fig.3B), but does not expressly provide for comparing an intensity of he acquired color values with an intensity of the known color values, Gilman and Murashita are combinable because they are from the same field of endeavor, where Murashita provide for correct intensity (col.33 lines 32-40, note brightness). It would have been obvious to a person of ordinary skill in the art at time the invention was made to incorporate the teaching of Murashita (correcting brightness). Because the Murashita invention relates to a display profile creation method and display profile creation apparatus for creating a profile relating to the color appearance of the display device col.1 lines 20-22).

As to claim 11 Gilman provides a color management system (Fig.3B), but does not provide for each color value is represented by a unique binary number, Gilman and Murashita are combinable because they are from the same field of endeavor, where

Murashita provide for binary color coding such that each color is represented by a unique binary number (col.18 lines 10-19, note R, G, and B colors each represented by 8-bit). It would have been obvious to a person of ordinary skill in the art at time the invention was made to incorporate the teaching of Murashita (each color is represented by a unique binary number). Because the Murashita invention relates to a display profile creation method and display profile creation apparatus for creating a profile relating to the color appearance of the display device col.1 lines 20-22).

In regard to claims 25 and 26 Gilman provides for a color management system (Fig.3B), but does not provide for accessing said digital exhibit space using access codes and a password, Gilman and Murashita are combinable because they are from the same field of endeavor, where Murashita provide for accessing said digital exhibit space using access codes and a password (col.32 lines 27-34, note accessing the server). It would have been obvious to a person of ordinary skill in the art at time the invention was made to incorporate the teaching of Murashita (access codes and a password). Because the Murashita invention relates to a display profile creation method and display profile creation apparatus for creating a profile relating to the color appearance of the display device col.1 lines 20-22).

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

**Final Action**

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

#### Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Bayat whose telephone number is 703-306-5915. The examiner can normally be reached on M-Thur 9:00-7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on 703-308-5246. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5631.

Ali Bayat  
Patent examiner  
Group Art Unit 2625

  
KANJI BHAI PATEL  
PRIMARY EXAMINER

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A B

11/28/04